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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES MONTELEONE,

Defendant and Appellant.

C086774

(Super. Ct. No. CR174490,
CR150064)

Over the course of three years, defendant Charles Monteleone sustained numerous convictions for stalking and related probation violations. After a contested probation hearing, the trial court revoked his probation and sentenced defendant to a term of three years eight months in state prison.

Defendant's appointed counsel filed an opening brief setting forth the facts of the case and asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Finding no arguable error that would result in a disposition more favorable to defendant, we affirm.

I. BACKGROUND

We provide the following brief description of the facts and procedural history of defendant's case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

Case No. CR150064

In 2015, a jury found defendant guilty of stalking V.M. and the trial court placed him on probation. Following an appeal, we modified the judgment to include additional fees and as modified, affirmed the judgment.¹

Case No. CR174490/Violation of Probation

Two years later, defendant pleaded no contest to another stalking charge and admitted he had violated his probation. The trial court placed him on probation for five years, conditioned on serving 180 days in jail. He was scheduled to surrender on January 18, 2018.

Case No. CR174490/Violation of Probation Hearing

One of the terms of defendant's probation was that he wear a GPS monitor and he was not permitted to travel near V.M.'s house. On November 28, 2017, V.M. called the probation office. Upon investigation, the probation officers discovered defendant's GPS unit had not moved for four days. The officers believed it was likely plugged into a wall outlet. They drove to the location where the GPS reported it was located and could not find defendant there. They called defendant's mobile phone and could not reach him. They drove to his work location and asked the employer to have defendant come to the human resources office. The officers then saw defendant outside and ran towards him yelling his name. Defendant ran, jumped into his car, and despite being ordered to stop,

¹ The substantive facts underlying this conviction are detailed in our opinion in *People v. Monteleone* (June 12, 2017, C082224) [nonpub. opn.]. They are not relevant to our resolution of this appeal, so we do not recount them again.

drove off. Later that afternoon, the officers returned to defendant's home. He was ordered to surrender but did not comply for three to four hours.

The probation officer filed a probation violation, alleging defendant had removed his electronic monitoring unit and absconded. A few days later, the probation officer added a count of resisting arrest.

Following a contested probation violation hearing, the trial court found defendant had violated probation. The trial court sentenced defendant to the midterm of three years for stalking in CR174490 and a consecutive eight months for stalking in CR150064 (one third the midterm). The trial court awarded defendant 224 presentence custody credits on case No. CR174490, and 93 presentence custody credits on case No. CR150064. The trial court ordered defendant to pay \$600 in restitution fines (Pen. Code, § 1202.4, subd. (b)—\$300 in each case),² imposed the previously ordered and suspended \$600 probation revocation fines (§ 1202.44—\$300 in each case), imposed a \$600 parole revocation fine, suspended (§ 1202.45—\$300 in each case), an \$80 court operations assessment (§ 1465.8), and a \$60 court facility fee (Gov. Code, § 70373).

II. DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts and procedural history of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of his right to file a supplemental brief within 30 days from the date the opening brief was filed. More than 30 days have elapsed, and defendant has not filed a supplemental brief. Having undertaken an examination of the entire record pursuant to *Wende*, we find no arguable error that would result in a disposition more favorable to defendant.

² Undesignated statutory references are to the Penal Code.

III. DISPOSITION

The judgment is affirmed.

/S/

RENNER, J.

We concur:

/S/

RAYE, P. J.

/S/

DUARTE, J.